

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

JOSEPH THOMAS, :
Movant/Defendant, :
v. :
Crim. Act. No. 20-71-CFC
Civ. Act. No. 23-53-CFC
UNITED STATES OF AMERICA, :
Respondent/Plaintiff.

ORDER

At Wilmington on this Twenty-First day of December in 2023, for the
reasons set forth in the Memorandum Opinion issued this date, **IT IS HEREBY**
ORDERED that:

ORDERED that:

1. Movant Joseph Thomas's 28 U.S.C. § 2255 Motion is **GRANTED IN PART AND DENIED IN PART**. The Motion is denied with respect to all issues except Movant's argument in Claim One that defense counsel was ineffective for failing to object to the inclusion of his expunged 2016 New Jersey marijuana conviction in the PSR's calculation of his criminal history score.

2. Movant's sentence and the judgment implementing that sentence (D.I. 48) is VACATED

3. The Court schedules Movant's resentencing hearing for February 9, 2024, at 9:00 a.m.

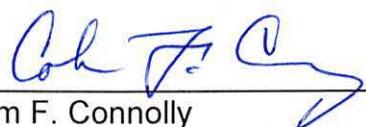
4. Within 30 days of this Order, Movant shall inform the Court as to whether he: (1) wishes to represent himself at resentencing; (2) plans to retain new

counsel to represent him at resentencing; or (3) seeks the appointment of counsel to represent him at resentencing. If Movant seeks the appointment of counsel, he must file: (1) a motion requesting the Court to appoint counsel, and (2) a motion for leave to *proceed in forma pauperis* along with the required accompanying financial information and copy of his prisoner account summary demonstrating his indigence.

5. Within 45 days of this Order, the United States Probation Office shall prepare an updated Presentence Investigation Report recalculating Movant's guidelines range.

6. The Parties shall file new or updated sentencing memoranda by January 30, 2024.

7. The Court declines to issue a certificate of appealability with respect to the denial of Claims Two and Three because Petitioner has failed to satisfy the standards set forth in 28 U.S.C. § 2253(c)(2).



Colm F. Connolly
Chief Judge